

CIVIL DOCKET

UNITED STATES DISTRICT COURT

Jury demand date:

67-0-238

D. C. Form No. 106A Rev.

TITLE OF CASE	ATTORNEYS
<p>Ashland Oil and Refining Company, and United States of America, Addit. Pty. Pltf. vs</p> <p>Phillips Petroleum Company, and United States of America</p> <p>(addl. pltf. counsel) Arloe W. Mayne 1409 Winchester Ave., Box 391 Ashland, Ky. 41101 and W.O. Strong III 2 Houston Center, Box 1503 Houston, Texas 77001</p>	<p>For plaintiff: Jay W. Elston Fulbright, Crooker, Freeman, Bates- & Jaworski, & B. J. Bradshaw, Bank of Houston Southwest Building, Houston, Texas, 77002</p> <p>Martin, Logan, Moyers, Martin & Conway; and John Imel NBT Building Tulsa, Oklahoma 74103</p> <p>Gerald Sawatzky 600 Fourth Natl. Bank Bldg. Wichita, Kansas 67202</p> <p>Nathan G. Graham Hubert A. Marlow Dennis A. Dutterer Floyd L. France, /Dept. of Justice Washington, D. C. 20530 For defendant: Vinson, Elkins, (John L. Murchison) First City National Bank Building, Houston, Texas, 77002</p> <p>Don, Don Jemison Phillips Pet. Rm. 555, Frank Phillips Bldg. Bartlesville 74004</p> <p>Boesche, McDermott & Eskridge, National Bank of Tulsa Bldg., Tulsa, Oklahoma. 74103</p> <p>L.K. Smith & Reuben Davis 900 World Bldg. Tulsa 74103 (587-0000)</p>

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed 1-2-68 12-1-68 1-1-73	Clerk	9/11/73	Imel	5.00	
		9/12/73	McDermott	5.00	
		9-13-73	C.D.No.7		10 00
J.S. 6 mailed 3-1-68 9-1-73	Marshal				
Basis of Action: 1-1-19	Docket fee				
Breach of Natural Gas Contract.	Witness fees				
Action arose at: Bartlesville	Depositions				

1967 DATE	PROCEEDINGS	Date Order or Judgment Noted
12-7-67	Transcript of Record transferred from USDC SDofTex Houston Div. filed. e	
12-18-67	Plaintiff's motion for an order to return the file in this action to the District Court for the Southern District of Texas filed.h	
12-18-67	Plaintiff's brief in support of its motion for an order to return the file in this action to the District Court for the Southern District of Texas filed. h	
12-21-67	Defendant's Answer to Plaintiff's motion for an order to return the file in this action to the district court for the Southern District of Texas, filed. ds	
12-21-67	Defendant's Brief in opposition to plaintiff's motion for an order to return the file in this action to the District Court for the Southern District of Texas, filed. ds	
2-6-68	Hearing held on plaintiff's motion for an order to return the file in this action to the District Court for the Southern District of Texas; motion taken under advisement. Defendant directed to file brief on authorities on this date, and plaintiff granted 10 days in which to file responses. (Luther Bohanon-Judge)h	
2-12-68	Order filed and entered that Clerk return file to United States District Court for the Southern District of Texas, Houston Division for the purpose for the purpose of having such papers before the Judge in determining and deciding the plaintiff's motion filed in said court for reconsideration of the memorandum and order dated 12-4-67, and this order should not be considered as a re-transfer of this cause to the SDTexas, Houston Division, or a review of the Court's order of 12-4-67, but this Court will await the judgment and ruling of the Judge of the District Court for the SD Texas, Houston Division, upon plaintiff's motion to reconsider. The Clerk of the USDC for NDof Okla., in accordance with this order, shall forthwith return the papers and filed in this cause to the Clerk of the USDC for the SDTexas, Houston Division for the purpose outlined. (Luther Bohanon - Judge) Copies mailed. b	
11-7-68	Copy of Memorandum, filed, case returned to this court. b	
11-7-68	Ordered that the record of this case having been retransferred to this District from the Southern Dist. of Texas, the Court assumes jurisdiction and it is ordered that deft's consolidated motion under Rule 12, motion to dismiss, motion for more definite statement & motion for production of documents, be and they are overruled, and deft. is granted 20 days to answer. The Court will reconsider the motion for production of documents if urged by either party. (LB-J)m	
12-2-68	Answer filed by Phillips Petroleum Co. h	
12-6-68	Case set for pre-trial hearing on Thursday 12-19-68 at 1:30 p.m. (LB-J)m	
12-17-68	Case stricken from pre-trial assignment of 12-19-68. (LB-J)m	
12-23-68	Plaintiff's motion to strike parts of defendant's answer and alternative motion for partial summary judgment, filed. b	
12-23-68	Memorandum supporting plaintiff's motion to strike parts of defendant's answer and alternative motion for partial summary judgment, filed. b	
1-14-69	Hearing held on plaintiff's motion to strike parts of deft's answer and alternative motion for partial summary judgment. Motion overruled without prejudice and with right of pltf. to bring it up again. Pltf. to prepare order. (LB-J)m	
1-21-68	Order filed, plaintiff's motion to strike paragraph X of defendant's answer and alternative motion for partial summary judgment is denied without prejudice to plaintiff's contentions which may be reasserted. (Luther Bohanon - Judge) b	
1-23-69	Case set for pre-trial hearing Wednesday 2-5-69 at 9:30 a.m. (LB-J)m	
1-29-69	Case stricken from pre-trial assignment of 2-5-69. (LB-J)m	

(Continued on Page No. 3, Sheet No. 2)

CIVIL DOCKET

Cook
BOHANON

67-C-238

UNITED STATES DISTRICT COURT

Jury demand date:

D. C. Form No. 106A Rev.

TITLE OF CASE	ATTORNEYS
<p>a ASHLAND OIL AND REFINING COMPANY vs. PHILLIPS PETROLEUM COMPANY, AND UNITED STATES OF AMERICA</p>	<p>For plaintiff:</p> <p>John Imel Martin, Logan, Moyers, Martin & Conway NBT Bldg., Rm. 920 <i>320 S. Boston Bldg. Rm. 920</i> Tulsa 74103 (582-5281)</p> <p>Gerald Sawatzky <i>(8-752-6311)</i> <i>316-267-6371</i> <i>700</i> 600 Fourth Natl. Bank Bldg. <i>Financial City</i> Wichita, Kansas 67202 <i>Broadway at Douglas</i></p> <p>B. J. Bradshaw Fulbright & Jaworski 800 Bank of Southwest Bldg. Houston, Texas 77002 <i>William Williams</i></p> <p>Arloe W. Mayne, 1409 Winchester Ave., Box 391, Ashland, Ky. 41101 and</p> <p>W. O. Strong III, 2 Houston Center, Box 15 1503, Houston, Texas 77001</p> <p>For defendant:</p> <p>Hubert A. Marlow, Tulsa <i>633-4080</i> John Lindskold Andrew F. Walch (FTS <i>633-4112</i>) Dennis Dutterer (FTS <i>739-2713</i>) Dept. of Justice <i>(on appeal) Jacques Helms</i> Washington, D. C. 20530 <i>633-2762</i></p> <p>Don I. Jemison (918-661-4743) Phillips Pet., Rm. 555 (C.J. Roberts, Asst. Frank Phillips Bldg. Gen. Counsel) Bartlesville 74004</p> <p>Boesche, McDermott & Eskridge NBT Bldg., Tulsa 74103 (583-1777)</p> <p>L. K. Smith & Reuben Davis (587-0000) Boone, Ellison & Smith 900 World Bldg., Tulsa 74103</p>

DATE	PROCEEDINGS	Date Order or Judgment Noted
2-11-69	Plaintiff's Second set of Interrogatories pursuant to Rule 33, filed. g	
2-13-69	Case set for pre-trial Tuesday 3-4-69 at 9:30 a.m. (LB-J)m	
2-19-69	Plaintiff's Third Set of Interrogatories pursuant to Rule 33 filed. h	
2-28-69	Defendant's motion for an extension of additional time to answer plaintiff's second and third sets of interrogatories (for an extension of 20 days), filed. Brief attached. m	
3-4-69	Pre-trial hearing held. Defendant's motion for an extension of 20 days additional time to answer plaintiff's second and third set of interrogatories is granted. Ordered that parties are to stipulate as to facts concerning Claim No. 1 and submit briefs; and parties are to stipulate as far as possible as to facts and documents relating to plaintiff's legal right to recover any part of helium and submit briefs. Case to be set for further pre-trial within 30 or 40 days. (LB-J)m	
3-17-69	Defendant's Answers to Plaintiff's Second and Third Sets of Interrogatories, filed. h	
3-28-69	Case set for further pre-trial on 4-9-69 at 9:30 a.m. (LB-J)m	
3-28-69	Trascript of certain orders of the Court, filed. m	
4-9-69	Further pre-trial hearing held. Pltf. granted 30 days to complete discovery on formula. Further pre-trial to be set sometime <u>after</u> June 1, 1969. (LB-J)(FS-CSR)m	
6-5-69	Case set for pre-trial on Thursday, 6-19-69 at 9:30 a.m. (LB-J)m	
6-19-69	Case called for further pre-trial hearing. Parties to prepare stipulation requesting proceedings in this case be stayed until 6th & 10th circuits rule on FPC case and Wichita case. (LB-J)m	
6-19-69	Joint motion pursuant to stipulation, filed. m	
6-24-69	Order that further proceedings in this case be stayed until decisions by Sixth Circuit and Tenth Circuit, filed. (LB-J)m	
3-23-71	Case set for final pre-trial 4-6-71 at 9:30 a.m. (LB-J)m	
4-5-71	Case stricken from pre-trial docket of 4-6-71. (LB-J)m	
5-14-71	Plaintiff's motion for leave to file amended complaint, filed. ds	
5-14-71	Brief in support of motion for leave to file amended complaint, filed. ds	
6-10-71	Case called for hearing on pltf's motion for leave to file amended complaint. Statements made. Court enters order dismissing claim & deft. to prepare order. Court grants permission for pltf. to file amended complaint & deft. given 30 days to answer. Case will then be abated until ruling on 10th Circuit case. (LB-J)m	
6-10-71	Amended complaint, filed. m	
6-22-71	Order that claim for accounting under contracts is dismissed without prejudice, filed. (LB-J)m	
7-20-71	Answer to amended complaint, filed. m	
1-18-72	Stipulation between parties, re sample of gases and volume of helium, filed. rm	
1-25-72	Pltf's second request for admissions pursuant to rule 36 & fourth set of interrog. pursuant to rule 33, filed. hm	
2-8-72	Extension of time within which to respond, filed, granting ext. to deft. until 3-1-72 to respond to pltf's 2nd request for admissions & 4th set of interrog. (LB-J)hm (copies mailed)	
3-1-72	Deft's response to pltf's second request for admissions & fourth set of interrogatories, filed. hm	
3-7-72	Pltf.'s fifth set of interrogatories, filed. rm	
4-6-72	Deft.'s Response to Plaintiff's Fifth Set of Interrogatories Served March 7, 1972, filed. v	
4-11-72	Pltf's reply to deft;s response to pltf's fifth set of interroga-tories served 3-7-72, filed. hm	

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DATE	PROCEEDINGS	Date Order or Judgment Noted
6-21-72	Case set for pre-trial 7-6-72 at 9:30 a.m. (LB-J)hm	
7-6-72	Motion for summary judgment on the issue of liability, filed. ds	
7-6-72	Brief in support of plaintiff's motion for interlocutory summary judgment on the issue of liability, filed. ds	
7-6-72	Case called for pre-trial hearing. Deft. given 20 days to respond to pltf's motion for S/J filed this date. Court will enter an order on motion and case to be a non-jury case. (LB-J)hm	
7-25-72	Deft's Motion for Additional time within which to respond to Pltf's Motion for S/J on the issue of liability w/Memorandum in support of Motion, filed. r	
7-27-72	Ordered by the Court that deft. is granted an additional 20 days or until 8-15-72 to file brief in response to motion for S/J. (LB-J)hm	
7-31-72	Order, filed, granting deft. until 8-15-72 to respond to pltf's motion for S/J. (LB-J)hm	
8-15/72	response brief of def. to pltf.'s mo. for S/J, filed. rm	
8-28-72	Pltf's reply brief supporting its motion for partial summary judgment, filed. g	
8-30-72	Hearing held on pltf's motion for S/J on issue of liability. Statements made. Court takes ruling under advisement and will enter an order. Court will then set case for non-jury trial, possibly in November or December. (LB-J)hm	
9-14-72	Summary judgment on the issue of liability, filed, ^{entered} that pltf's motion for S/J on the issue of liability is granted. (LB-J)hm (copies mailed)	
10-3-72	Motion of the Deft. for Leave to file an amended answer and supporting brief, filed. v	
10-3-72	Motion of the Deft. to set aside order of 9-13-72 and supporting brief, filed. v	
10-3-72	Deft.'s first request for admissions pursuant to rule 36 and second set of interrogatories pursuant to rule 33, filed. v	
10-6-72	Order, filed, granting leave for deft. to file amended answer to amended complaint. (LB-J)hm (copies mailed)	
10-6-72	Amended answer to amended complaint, filed. hm	
10-16-72	Plaintiff's response to defendant's motion to set aside order filed, ds	
10-16-72	Case called for hearing on deft's motion to set aside order of 9-13-72. Statements made. Parties to file stipulation as to facts & briefs and Court will rule on motion and issue of liability at hearing on 12-5-72 at 9:30 a.m. (LB-J)hm	
10-19-72	Pltf's request for production of documents, filed. hm	
11-1-72	Pltf's application for extension of time to answer deft's first request for admissions and second set of interrogatories, filed. hm	
11-3-72	Order, filed, granting pltf. 10 days from 11-6-72 to file answers to deft's first req. for admissions & second set of interrog. (LB-J)hm (copies mailed)	

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- 11-15-72 Pltff's answers to deft's first request for admissions and second set of interrogatories, filed. hm
- 11-16-72 Deft's supplemental response to pltf's fifth set of interrog. served 3-7-72, filed. hm
- 11-16-72 Response to pltf's request for production of documents, filed. hm
- 12-1-72 Stipulation of facts, filed. g
- 12-4-72 Case stricken from hearing on motion to set aside order of 9-13-72 and hearing on issue of liability set for 12-5-72, to be set for further pre-trial at later date. (LB-J)hm
- 1-31-73 Case set for further pre-trial and hearing on motion to set aside order of 9-13-72 on Weds. 2-14-73 at 1:30 p.m. (LB-J)hm
- 2-12-73 Deft's Motion to require answer by pltf to request for Adm. No. 1 of Deft's First Request for Admissions, filed. r
- 2-12-73 Deft's Brief in support of its Motion to Requáre Answer by Pltf to request for Adm. No. 1 of deft's First Request for Admissions, filed. r
- 2-12-73 Deft's Second request for admissions pursuant to Rule 36 and Third set of interrog. pursuant to Rule 33, filed. r
- 2-13-73 Motion of the U.S. to Intervene as a Party Pltf. w/Memorandum in Support of the Motion of the U.S. to Intervene as a party pltf., filed. jj
- 2-14-73 Pltf's. Motion to Transfer, filed. jj
- 2-14-73 Brief in Support of Motion to Transfer, jj.
- 2-14-73 Case called for further pre-trial. Statements made on motion to intervene of USA. Pltf. given 10 days to file response brief to said motion. Deft. states it has no objection to motion. Deft. given 10 days to respond to motion to transfer. Pre-trial hearing passed. Court announces it will review entire file and make a final determination on question of S/J and issue of liability, along with a ruling on motion to intervene and motion to transfer. (LB-J)hm
- 2-26-73 Deft's brief in opposition to motion to transfer, filed. hm
- 3-2-73 Supplement to Deft.'s Brief in Opposition to Motion to Transfer, filed. v
-with Correction Affidavit of Don L. Jemison.
- 3-2-73 Ordered by the Court thatPltf. is given 10 days to file additional pleadings in support of motion to transfer. (LB-J)hm
- 3-12-73 Pltf's. Reply Brief on Motion to Transfer, filed. jj
- 3-12-73 Supplemental Affidavit of Gerald Sawatzky in Support of Mtn. to Trans., filed
JJ
- 3-19-73 Plaintiff's answers to defendant's 2nd request for admissions and 3rd set of interrogatories, filed. ds

over

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-19-73	Order denying motion to transfer; terminating discovery; vacating court's order on liability dated 9-13-72, and order permitting intervention of USA herein and setting trial date, filed; that discovery shall be concluded not later than 5-1-73, that Court will conduct no further pre-trial hearing unless requested; that order entered 9-13-72 is vacated in its entirety & that deft. may introduce relevant evidence on question of liability & amt. of damage to which pltf. may be entitled; that USA is allowed to intervene on condition that such intervention will not prejudice the trial hereof; and that case is set for trial & disposition on the merits as to liability & amt. of damages or recoverable judgment by the pltf. on <u>June 11, 1973 at 9:30 a.m.</u> (LB-J)hm (copies mailed)	
3-20-73	Application to file amended answers or brief in support of objections to plaintiff's answers to deft's second request for admissions & third set of interrogatories, filed. hm	
3-21-73	Complaint in intervention of the United States, filed. hm	
3-22-73	Pltf's Notice to take Depositions, filed. r	
3-23-73	Order, filed (part of application) granting pltf's. 20 days after 3-19-73 to file either a brief in support of objections or amended answers, without prejudice to trial. (LB-J)hm (copies mailed)	
3-27-73	Separate answer of the deft. Phillips Pet. Co. to the complaint in intervention of the United States, filed. hm	
4-10-73	Answer of Ashland Oil, Inc., to the complaint in intervention of the U.S., filed. hm	
4-10-73	Plaintiff's answers to deft's second request for admissions and third set of interrogatories, filed. hm	
4-20-73	Notice by def. to take dep. of Leonard Holland on 4/30/73, filed. rm	<i>Subpoena issued.</i>
4-26-73	Appl & Order, granting permission for parties to depose the witnesses named in appl thry 5-15-73. This Order is entered w/o prejudice to the trial date set for 6-11-73. filed. (LB-J)r	
4-26-73	Marshal's Service Returned and filed. Served deposition subpoena on Leonard Holland, 4-25-73, Tulsa, Okla. w/witness fee. jj	
6-5-73	Deposition of Robert R. Click taken by Garland R. Brock of Dallas, Texas, filed. ds	
6-7-73	Depo. of Stanley C. Whiteaker, on behalf of Deft., taken on 5-4-73, before Frank L. Peterson, CSR, with fee of \$58.80, pd. by Deft. v	
6-7-73	Depo. of John C. Dunn, on behalf of the Deft., taken on 5-4-73, before Frank L. Peterson, CSR, with fee of \$87.60, pd. by Deft. v	
6-7-73	Depo. of Leo Garwin, on behalf of the Deft., taken on 5-3-73, before Frank L. Peterson, CSR, with fee of \$104.40, pd. by Deft. v	
6-7-73	Dep. of Walter L. Cox, Jr., on behalf of Plt., taken on 3-30-73, before Thurman J. Moody, CSR, with fee of \$33.00 pd. by Plt., filed. jj	
6-7-73	Dep. of H. L. Hester, on behalf of Deft., taken on 4-26-73, before Conklin & Annis, CSR, with fee of \$30.00 pd. by Def., filed. jj	
(cont.)		

DATE	PROCEEDINGS	Date Order or Judgment Noted
6-12-73	Trial continued with testimony of pltf's witness John C. Dunn. Pltf. rests. Deft's witnesses sworn: Walter L. Cox by deposition (admitted into evidence as deft. ex. 4), Harold Legatski by transcript (admitted into evidence as deft. ex. 5), George P. Bunn, J. E. Williams, Weldon M. Williams, Earnest Harper, Donald F. Bailey, Charles C. Chapman. (4:50 p.m.) Court recessed until 1:30 p.m. 6-13-73) (LB-J)hm (Christesson, Peterson-CSR's)	
6-13-73	Trial continued with testimony of deft's witnesses Robert R. Click and Melvin H. Cullender. (5:00 p.m.) Court recessed until 9:30 a.m. 6-14-73. (LB-J)hm (Christesson, Peterson-CSR's)	
6-14-73	Trial continued with testimony of deft's witnesses: Melvin H. Cullender and Henry T. Wheeler, Jr. Deposition of H. L. Hester admitted into evidence. Govt. and deft. rest. Pltf's rebuttal witness Stanley C. Whiteaker. Deft's surrebuttal witness Melvin H. Cullender. Parties rest. Closing arguments made. Court rules for Plaintiff on all issues and against Defendant. Plaintiff to prepare suggested F/F within 15 days and defendant 10 days thereafter. Court will set case for final hearing on determination of final F/F, C/L and Judgment. (4:25 p.m.) Court recessed. (LB-J)hm	
6-14-73	Trial exhibits, filed. hm	
6-14-73	Transcript of proceedings on June 11, 1973, filed. hm	
6-14-73	Transcript of proceedings on June 12, 1973, filed. hm	
6-14-73	Transcript of proceedings on June 13, 1973, filed. hm	
6-20-73	Transcript of proceedings on June 14, 1973, filed. jj	
6-29-73	Pltf's proposed F/F & C/L, filed. hm	
7-5-73	Case set for final hearing 7-20-73 at 9:30 a.m. (LB-J)hm	
7-5-73	Ordered that deft. is granted an extension of time until 7-16-73 to file any objections to pltf's proposed F/F & C/L. (LB-J)hm	
7-16-73	Objections of United States, Intervenor, to pltf's proposed findings, filed. hm	
7-16-73	Deft's (Phillips) objections to F/F & C/L proposed by the pltf. & deft's requested F/F & C/L, filed. hm	
7-18-73	Memorandum on plaintiff's right to interest and attorney's fees, filed. hm	
7-18-73	Plaintiff's response opposing motion to reopen the evidence, filed. hm	
7-20-73	Case called for final hearing. Deft. Phillips motion for leave to reopen the evidence filed in open court and denied. Deft. USA given leave to substitute a corrected page 3 in its objections to pltf's proposed F/F & C/L & the Clerk is directed to make said substitution. Statements made on costs of extraction of helium, interest, atty. fees. & Stipulation made as to atty. fees & no proof deemed necessary. Statements continue on cost of gathering system & division of recovery between pltf. & landowners. Affidavits of Jay W. Elston, John M. Imel & Gerald Sawatzky filed in open court. Deft's witness M. H. Cullender sworn and testifies. Deft. Phillips files memorandum in opposition to claim for attys. fees. Pltf. files supplemental affidavit regarding attys fees in open court. Court will enter a final order. (LB-J)hm	
7-20-73	Motion to reopen the evidence to admit a relevant document upon offer of the deft. and the intervenor., filed in open court. hm	
7-20-73	Claim of John M. Imel for attys. fees as a pltf's counsel, filed in open court. hm	

(continued)

DATE	PROCEEDINGS	Date Order or Judgment Noted
6-7-73	Dep. of Don W. Cox, on behalf of Deft., taken on 4-26-73, before Conklin & Annis, CSR, with fee of \$49.00 pd. by Def., filed. jj	
6-7-73	Dep. of John Creig Coogan, on behalf of Deft., taken on 4-26-73, before Conklin & Annis, CSR, with fee of \$70.00 pd. by Def., filed. jj	
6-7-73	Dep. of John A. Rowley, on behalf of Deft., taken on 4-26-73, before Conklin & Annis, CSR, with fee of \$38.00 pd. by Def., filed. jj	
6-7-73	Dep. of L. H. Hammond, Jr., on behalf of Deft., taken on 4-26-73, before Conklin & Annis, CSR, with fee of \$22.00 pd. by Def., filed. jj	
6-7-73	Dep. of Ray Althouse, on behalf of Deft., taken on 4-27-73, before Conklin & Annis, CSR, with fee of \$185.00 pd. by Def., filed. jj (2Vols.)	
6-7-73	Dep. of Walter Biery, on behalf of Deft., taken on 4-26-73, before Conklin & Annis, CSR, with fee of \$20.00 pd. by Def., filed. jj	
6-7-73	Dep. of Banner E. Billings, on behalf of Deft., taken on 4-26-73, before Conklin & Annis, CSR, with fee of \$65.00 pd. by Deft., filed. jj	
6-7-73	Pltf.'s Trial Memorandum, filed. v	
6-8-73	Deps. of Donald F. Bailey, M. H. Cullender, Robert C. Green, Louis P. Sumpter and S. W. Mapel, taken on 3/28, 29 & 30, 73 on behalf of pltf., filed. rm (\$553.54 pd by pltf.)	
6-8-73	Dep. of Harold F. Thill, M. H. Cullender, R. C. Green, Damon Milligan, Theodore R. Clinger, Frank Silva, LeRoy Culbertson, J. E. Williams, James E. Surguy, Weldon M. Williams and M. D. Hunt, taken by pltf. on 4/10, 11 & 12, '73, filed. rm (\$565.99 pd by pltf) Dep. of C. A. Roberts, Charles C. Chapman, Perry E. Goth, Jr., H. B. Yancy, J. M. Maxwell, R. S. Scheirman, C. F. Yeats, James H. Simmons, William A. Emerson, John Ausmus, Raymond Maddux, Lowell Wise, Eugene A. Witt, W. B. Blackstock, Martin Richard Reber, Salvador Samuel DeMarco and Ernest A. Harper, taken by pltf on 4/24/73, filed. rm (\$301.32 pd by pltf.)	
6-11-73	Deposition of Everett S. Palmer, filed. hm	
6-11-73	Deposition of F. H. Ramstad taken by pltf., filed. g	
6-11-73	Deposition of Howard Lubow of behalf of deft., filed. g (\$138.20)	
6-11-73	Trial memorandum in support of deft. Phillips Pet. Co's right to preferentially process its aliquot part of commingled gas streams for helium recovery, filed. hm	
6-11-73	Case called for non-jury trial. Parties announce ready. Messrs. Gerald Sawatzky, Jay W. Elston, Stanley G. Andeel, Floyd L. France & Dennis A. Dutterer admitted to practice in this Court for the purpose of this trial only. Upon deft's request, USA is made a party deft. instead of a party pltf. & style of case shall be changed accordingly. Opening statements made. Pltf's witnesses Dr. Leo Garwin and Stanley Whiteaker sworn and testify. (4:45 p.m.) Court recessed until 9:30 a.m. 6-12-73. (LB-J)hm (Lloyd Christesson, Frank Peterson-CSR's)	

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DATE	PROCEEDINGS	Date Order or Judgment Noted
7-20-73	Affidavit regarding legal services of Gerald Sawatzky, filed in open court. hm	
7-20-73	Affidavit of Jay W. Elston, filed in open court. hm	
7-20-73	Supplemental affidavit regarding attys fees of Imel, Elston & Sawatzky, filed in open court. hm	
7-20-73	Defts' memorandum in opposition to claim of attys. fees, filed in open court. hm	
8-13-73	Opinion, filed and entered. (LB-J)hm (copies mailed)	
8-13-73	Judgment, filed and entered, that Pltf. have judgment against Deft. Phillips in amt. of \$1,402,800.91 with accruing int. as provided by law from 6-30-72 until paid, forhelium sold & delivered during the 10-year period ending 6-30-72; that Pltf. have judgment against Deft. Phillips in amt. of \$137,210.00 with accruing int. as provided by law from date of this judgment until judgment is paid as attys. fees; that Pltf., upon receipt of payment of helium with int. shall deduct its expenses of prosecution in amt. of \$57,685.49 & pay its royalty owners on basis of payments heretofore made to its royalty owners for gas sold in interstate commerce ½ of said helium receipts together with its ½ of accrued & accruing int.; that deft. Phillips pay costs of litigation; and that prayer of Intervenor, USA, is denied; deft. Phillips has made no claim for relief against USA. (LB-J)hm (copies mailed)	
8-16-73	Transcript of proceedings at argument on certain questions, in the nature of a final hearing on 7-20-73, filed. hm	
8-22-73	Pltf's motion pursuant to rule 60(a) FRCP, filed. hm	
8-22-73	Memorandum brief, filed. hm	
8-22-73	Notice of appeal by Phillips Petroleum Company, filed. cpies to USCA and counsel. g	
8-22-73	Supersedeas bond in amt. of \$1,694,012.00, filed. g	
8-27-73	Hearing held on pltf's motion pursuant to Rule 60(a) FRCP. Motion is sustained and pltf. counsel to prepare formal order by 8-28-73. (LB-J)hm	
8-31-73	Order to correct judgment and opinion, filed and entered. (LB-J)hm (copies mailed)	
9-11-73	Notice of appeal by pltf. of portion of judgment of 8/13/73, filed.rm (copy to USCA - Imel is mailing copies to other counsel)	
9-11-73	Bond for costs on appeal of pltf., filed. rm	
9-24-73	Appeal record (9 volumes) sent to USCA. rm	
10-4-73	Notice of appeal by USA, filed. (copies to USCA & counsel w/ltr. as addition to appeal record)	
11-8-73	Partial release of judgment, filed. ds	
2-11-74	Partial release of judgment, filed. g	
10-25-74	Partial Release of Judgment, filed. v	
8-18-77	Letter from 10th Circuit, that petition for writ of cert. was filed w/Supreme Court on 8/8/77 and assigned No. 77-221. rm (on behalf of Phillips)	
10-21-77	Letter from 10th Circuit that petition for writ of cert. was filed by United States on 10/7/77 and assigned No. 77-530.rm	

DATE	PROCEEDINGS	Date Order or Judgment Noted
1977 11-9	Letter from 10th Circuit that petition for cert. filed by Phillips was denied by Supreme Court on 10/31/77; that petition for cert. filed by USA is still pending. rm	
12-5	Letter from 10th Circuit that pet. for cert. of U.S. was denied by Supreme Court on 11/28/77; with Justice Blackmun not taking part in decision. rm	
12-5	Mandate and Opinion of 10th Circuit, filed and spread of record, affirming in part and reversing in part judg. of this Court and remanding cause for further proceedings; each party to bear its own costs. rm	
1-3-78	Interrogatories to U.S. by pltf., filed. rm	
1-3-78	Interrogatories to Phillips by pltf., filed. rm	
1-5	MO: Case set for pre-trial conf. in Tulsa on Wednesday, 1/18/78, at 9:30 a.m.(LB-J)rm-notices	
1-16-78	MO: Case stricken from the docket of 1/18/78, Pretrial conference, and <u>reset</u> on Jan. 25, 1978, Wednesday, at 9:30 a.m. (LB-J)v -parties notified by phone.	
1-20-78	Entry of appearance by L. K. Smith & Reuben Davis as atty for deft., filed. rm	
1-23	MO: Case stricken from docket of 1/25/78, to be reset at later date by the Court. (LB-J)rm-parties notified by phone	
1-26	MO: Case reset for pretrial conf. for Thurs., 2/9/78 at 10 a.m.(LB-J)rm-notices	
2-1	Interrogatories to Ashland Oil by deft., filed. rm	
2-6	Answers and objs. by Phillips to interogs. of pltf., dated 12/29/77, filed. rm	
2-8	MO: Ordered that pt conf. set for 2/9/78 is reset for Fri., 2/24/78 at 10 a.m.(LB-J)rm-notices	
2-24	Answers of the U. S. to pltf's interogs., filed. g	
2-24	<u>Pretrial hrg. held.</u> Counsel present. All attys. not presently admitted allowed to proceed in this case. Statements made. Parties given 10 days to exchange statement of issues, witnesses, exhibits as prel. pretrial order, w/copies to court. Case to be set for further pretrial in <u>Oklahoma City</u> and trial date to be set at that time. Any motions or discovery problems to be heard at that time.(LB-J)(F.Sickles-CR)rm	
2-24	Vols. IV thru IX (orig. appeal record) recd. from USCA, via Ok.City.rm	(in Exhibit Room)
2-28	Vols. I, II, & III of orig. appeal record recd. from USCA, via Okla.City.rm	
3-3	Pltf. answers. to Phillips interogs., filed. rm	
3-3	Pltf. statement of issues and contentions, filed. rm	
3-3	Motion of pltf. to simplify issues and for protective order, filed.rm	
3-3	Brief of pltf. in support of mo/simplify issues & prot.order, filed rm	

SHEET NO. 6

D. C. 110A Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-6-78	Draft PT order of deft., Phillips, filed. rm	
3-16-78	Copy of pretrial order by pltf., filed. rm	
3-20	Letter, filed, from LB to counsel setting case for final pretrial at 10 a.m., 3/30/78, in Ct.'s conf. room, 3rd Fl., Fed. Bldg., Okla. City.(LB-J)rm	
3-23	Phillips response to Ashland's mo/simplify issues and for protective order, filed. rm	
3-23	Deft. 2nd draft proposed pretrial order, filed. rm	
3-23	Mo/compel Ahslandto ans. interrog. by Phillips, filed. rm	
3-30	MO: Case called for final pretrial conf. and hearing on deft. motion to compel pltf. to ans. interrog. Hrg. held in Okla. City. Parties rep. by counsel of record. Arguments made on mo/compel. Defts. #7, 8, 9, 10, 17, 19 and 20 - denied; Deft. #30, 31 & 32 denied. By agreement of counsel, all motions are disposed of. Statements made concerning proposed pretrial order. Jury trial waived. All expert opinions of either side are to be exchanged by 7/1/78. Case set for nonjury trial 7/31/78 at 9:30 a.m. in Okla. City.(LB-J)(Bud Bailey-deputy)(F. Sickles-CR)rm	
3-31	Pre-trial Order, filed. (LB-J)rm - copies mailed by L.K.Smith	
4-5	Reporter's transcript of proceedings had at final pretrial conf. had on 3/30/78 in Okla. City, filed. (F.Sickles-CR)(pp. 1-40)(0 + 2)rm	
4-25	Pltf. not. to take depo. of P. K. Smith, Jr. on 5-3-78 in OKC. fld. ho s/i	
5-9	Pltf. not. of depo. of J. D. Harlan, Jr. to be taken on 5-19-78 in Tulsa, OK, fld. ho s/i	
5-9	Deft. Phillips not. of depo. of such person or persons as shall be designated by Cities Service Cryogenics, Inc. on 5-19-78 in Tulsa, OK, fld. ho s/i	
5-9	Deft. Phillips not. of depo. of such person or persons as shall be designated by Cities Service Helex, Inc. on 5-19-78 in Tulsa, OK, fld. ho s/i	
5-9	Deft. Phillips not. of depo. of such person or persons as shall be designated by Kerr-McGee Corp. on 5-15-78 in OKC., fld. ho s/i	
5-12	Marshal's return on service of dep. sub., filed. Served J. D. Harlan, Jr. by leaving copy w/Russell Smith on 5/10/78.(\$2.00 USM)rm	
5-24	Received two large chart exhibits from 10th Circuit.rm(in exhibit room)	
6-2	Notice by Phillips of taking deposition of persons in Northern Natural Gas Company, in Neb. on 6/13/78, filed. rm	
6-2	Notice by Phillips of taking deposition of persons in Northern Gas Products Company in Neb. on 6/13/78, filed. rm	
6-2	Notice by Phillips of taking deposition of persons in Northern Helex Company in Neb. on 6/13/78, filed.rm	
6-13	Deposition of Wm. H. Wilcox on behalf of pltf., filed. g	
6-20	Suppl. ans. of Phillips to interrog. Nos. 2,4,5,8 & 9 of Ashland, dated 12/29/77, filed. rm	

DATE	PROCEEDINGS	Date Order or Judgment Noted
6-26-78	Deposition of John R. Stiff on behalf of pltf., filed. g (\$77.40)	
6-30	Plaintiff's List of Witnesses, filed. rm	
6-30	List of Phillips' witnesses, filed. rm	
7-3	Proposed supplement to pretrial order filed by USA,rm	
7-5	Deposition of Robert A. Yancer on behalf of pltf., filed. g (\$68.05)	
7-17	List of Phillips addl. exhibits, filed. rm	
7-17	List of addl. exhibits by pltfs., filed. rm	
7-24	Deposition of Extra Solomon, filed. (Spalding & Freda-CSR)rm	
(see docketing below)		
8-2	Deposition of Paul K. Smith, Jr., on behalf of pltf., taken 5/3/78, filed.(FL Peterson-CSR)(\$81 pd by pltf.)rm	
8-2	Deposition of J. D. Harlan, Jr., on behalf of Phillips, taken 5/19/78, filed.(F. L. Peterson-CSR)(\$106.50 pd by Phillips)rm	
7-31	Deposition of Dr. Richard H. Leftwich, taken 7/14/78.(M.E.Peterson-CSR)(\$29.25 pd. by pltf.)	
7-31	Deposition of Joe F. Moore taken 7/14/78,filed.(M.E.Peterson-CSR)\$167.25 pd by pltf.) rm	
7-31	Deposition of M. H. Cullender, 7/12/78, filed.(M.E.Peterson-CSR)(\$156 pd by pltf)rm	
7-31	Deposition of James N. Brooks, 7/12/78, filed.(M.E.Peterson-CSR)(\$156 pd by pltf.) rm	
7-31	Trial brief of Phillips, filed. rm (post judg. int.)	
7-31	Trial brief of Phillips, filed (determination of proper starting pt.)rm	
7-31	Trial brief of Ashland, filed. rm	
7-31	Deposition of Burle F. Wobker, filed, taken 6/13/78.(M.E.Peterson-CSR)(\$371.60 pd by deft. Phillips)	
7-31	Deposition of Ross W. Wilson, 6/15/78, filed.(M.E.Peterson-CSR)(\$259.60 pd by Phillips)	
7-31	Deposition of John R. Stiff, 6/15/78,filed.(M.E.Peterson-CSR)(\$214.35 pd by Phillips)	
7-31	Deposition of Charles C. Chapman, 7/12/78,filed.(M.E.Peterson-CSR)\$88.28 pd by Phillips)	
7-31	Deposition of S. D. Ford, Jr., 7/25/78,filed.(M.E.Peterson-CSR)(\$246.25 pd by Phillips)	

D. C. 110A Rev. Civil Docket Continuation (Ashland v. Phillips)

②

DATE	PROCEEDINGS	Date Order or Judgment Noted
<u>1978</u>		
7-31	Deposition of Norman C. Stevenson, 7/12/78, filed. (M.E. Peterson-CSR) (\$38.75 pd by Phillips)	
7-31	Deposition of Le Roy Culberston, 7/13/78, filed. (M.E. Peterson-CSR) (\$41.50 pd by Phillips)	
7-31	Deposition of Stanley C. Whiteaker, 7/6/78, filed. (M.E. Peterson-CSR) \$329.25 pd by Phillips)	
7-31	Deposition of Dr. Leo Garwin, 7/6/78, filed. (M.E. Peterson-CSR) (\$148 pd by Phillips)	
7-31	Deposition of Donald W. Auten, 7/13/78, filed. (M.E. Peterson-CSR) \$162 pd by pltf)	
8-1	Transcript of trial proceedings, 7/31/78, filed. (pp.1-219) (M. Peterson-CSR)	
8-1	Transcript of trial proceedings, 8/1/78, filed. (pp.220-310) (M. Peterson-CSR)	
8-2	Transcript of trial proceedings, 8/1/78, afternoon session, filed. (pp.311-428)rm	
8-3	Transcript of trial proceedings, 8/2/78, morning session, filed. (pp.429-535)rm	
8-3	Transcript of trial proceedings, 8/2/78, afternoon session, filed. (pp.536-655)rm	
8-4	Transcript of trial proceedings, 8/3/78, morning session, filed. (pp.656-776)rm	
8-4	Transcript of trial proceedings, 8/3/78, afternoon session, filed. (pp.777-870)rm	
8-4	Transcript of trial proceedings, 8/4/78, filed. (pp.871-994)rm	
8-4	Deposition of Wesley H. Sowers, 7/24/78, filed. (\$31.25 pd by pltf.)rm	
8-4	Deposition of Eugene E. Ellington, 7/26/78, filed. (\$52 pd by pltf.)rm	
8-4	Deposition of Henry P. Wheeler, Jr., 7/28/78, filed. (\$36.25 pd by pltf)rm	
8-4	Deposition of John C. Dunn, 7/7/78, filed. (\$79.75 pd by deft Phillips)rm	
8-4	Deposition of Ronald R. Braeutigam, filed. (\$26.50 pd by pltf)rm	
8-4	Deposition of Ray D. Munnerlyn, filed. (\$140.75 pd by pltf)rm	
8-4	Deposition of Richard Nichols, 7/28/78, filed. (\$34.75 pd by pltf)rm	

(Ashland v. Phillips)

DATE	PROCEEDINGS	Date Order or Judgment Noted
<u>1978</u>		
8-4	<p>Non-jury trial held in Okla. City, 7/31/78, 8/1/78, 8/2/78, 8/3/78, 8/4/78. Counsel present. Parties announce ready. (7/31/78) Parties make opening statement. Pltf. presents case in chief w/testimony of witnesses. All depositions admitted in evidence. Pltf. Exh. 2-1 thru 2-10, 2-12A thru 2-13E admitted. Deft. Phillips Exhs. 29-41 admitted. Pltf. rests. (8/1/78) Trial conts. Pltfs. Exh. 2-19 admitted. Deft. U.S.A. presents case in chief w/test. of witnesses. Deft. USA Exhs. 1-31 admitted. Deft. Phillips Exhs. 42-54, 58, 61 admitted. (8/2/78) Deft. Phillips continues case in chief w/testi.of witnesses. Phillips Exhs. 62-73, 87-89 & 123 admitted. (8/3/78) Both defts. continue case in chief w/testimony of witnesses. USA Exhs. 32-37 admitted. Phillips Exh. 90-110, 115-122, 124-126 admitted. Pltf. presents rebuttal evidence w/test. of witnesses. Pltf. Exhs. 2-31, 2-35 thru 2-38 admitted. (8/4/78) Pltf. continues rebuttal evidence w/testimony of witnesses. Parties rest. Parties directed to file suggested FF/CL and Briefs on or before 9/15/78. Case to be set for oral argument in November. Trial adjourned. (LB-J) (Peterson-CSR) (B.Bailey-Deputy)rm</p>	
8-7 8-9-78	<p>Deposition of Dr. Leo Garwin, 7/28/78, filed. (\$48.50 pd by pltf)rm Letter from Judge Bohanon to counsel, filed, directing counsel to include in proposed FF/CL the workback method a 10% & 15% rate of return on capital. rm</p>	
8-17	<p>Deposition of Ernest A. Harper, on behalf of pltf., 7/24/78, filed. (M.E. Peterson-CSR) (\$60.75 pd by pltf)rm</p>	
8-28	<p>Letter from Judge Bohanon to counsel, filed, directing counsel to include addl. info in FF/CL. rm</p>	
10-3	<p>MO: Ordered that case is set for oral argument for Thurs., 11/9/78 at 10 a.m., Ct.rm No. 2, Okla. City, with all files and exhibits now being located in Okla. City. (LB-J)rm-notice</p>	
11-9	<p>Case called for oral arguments in Okla. City. Counsel present. Arguments heard. Court takes case under advisement. (LB-J)rm (Bud Bailey-deputy)</p>	
12-28	<p>Memorandum opinion, filed and entered. (LB-J)rm-copies md.</p>	
12-28	<p>Judgment, filed and entered, that pltf. have and recover from deft. Phillips the amount of \$218,244.00, together with int. from this date, as provided by law. (LB-J)rm-copies mailed</p>	
<u>1979</u>		
1-3	<p>Notice of appeal by pltf., Ashland, from judg. of 12/28/78, filed.rm (copies mailed) (\$5.00 f.f. recd.)</p>	
1-3	<p>Letter, filed, from pltf. counsel, as Designation of record on appeal. rm</p>	
1-3	<p>Bond for costs on appeal (\$250 surety), filed. rm</p>	
1-15	<p>Reporter's transcript of proceedings at oral arguments, had on 11/9/78, filed. rm (F.Sickles-OCR) (pp. 1-141)</p>	

CIVIL DOCKET CONTINUATION SHEET

BOHANON

FPI-MAR

PLAINTIFF		DEFENDANT	DOCKET NO <u>67-C-238</u>
ASHLAND OIL		PHILLIPS PETROLEUM	PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
1979		(Ashland -)	
1-19		Letter from 10th Circuit, assigning No. 79-1009. rm	
1-26		Notice of appeal by Phillips from judg. of 12/28/78, filed. rm-copies to counsel and USCA	
1-26		Undertaking to secure costs on appeal (\$250 cash) by Phillips, filed. rm	
2-8		Notice of appeal by USA from judg. of 12/28/78, filed. rm (copies md.)	
2-12		Letter from 10th Circuit, assigning No. 79-1096 to Phillips cross-appeal. rm	
2-12		Eight (8) vols. of orig. trial transcripts, 7/31/78 thru 8/4/78, received from ct. reporter for inclusion in appeal record. rm	
2-13		Orig. appeal record (21 vols.) transmitted to 10th Circuit. rm	
2-20		Ltr. from 10th Cir., assigning No. 79-1108 to USA cross-appeal. rm	
2/20		Transcript of proceedings at pretrial conf., on 2/24/78, filed. rm (F. Sickles-CR) (pp. 1-37) rm	
2/21		Transcript of 2/24/78 conf. transmitted to 10th Circuit as Suppl. Vol. I. rm	
3-9		Suppl. Vol. II (pltf. post trial memo) and Suppl. Vol. III (post trial computations) transmitted to 10th Circuit at request of pltf. counsel. rm	
11-26		MANDATE AND OPINION of 10th Circuit, filed and spread of record, affirming as to \$3 value at wellhead for helium, but reversing as to prejudg. interest & remanding for entry of judg. to include interest. rm - copy 1 & 2	
12-19		APPEAL RECORD (21 vols. + Suppl. Vols. I-III, except Vol. IV) received from 10th Circuit. rm (in exhibit room - 3 boxes)	
1980			
1-9		ORDER, entered - that judg. herein is modified to include prejudgment interest as provided by law. (LB-J) rm-c/m	
2-7		VOL. IV of appeal record received from 10th Circuit. rm	
3-7		LETTER from 10th Circuit, that petition for writ of cert. was filed on 2/11/80 by Ashland and assigned No. 79-1241; and pet. for writ of cert. was filed by Phillips on 2/12/80 and assigned No. 79-1250. rm	
5-22		LETTER from 10th Cir., that certiorari was denied by Supreme Court in both cases on 5/12/80. rm	
8-28		RECEIPT of pltf. for depositions and exhibits. hm	
8-28		RECEIPT of deft. for depositions and exhibits. hm	
8-29		RECEIPT of deft. USA for exhibits. hm	

CIVIL DOCKET CONTINUATION SHEET

FPI-AAR

PLAINTIFF		DEFENDANT	DOCKET NO. 67-C-238
ASHLAND OIL & REFINING CO.		PHILLIPS PETROLEUM CO. & USA	PAGE 16 OF 8 PAGES
DATE	NR.	PROCEEDINGS	
1981			
1-6		PLAINTIFF'S MOTION to clarify pre-judgment interest award.k	
1-6		MEMORANDUM in support of pltf's mot/clarify award of pre-judgment interest.k	
1-14		Response of Phillips to pltf. mo/clarify & memo in support.rm copy to LB by counsel	
1-15		ORDER entered that prejudgment interest be calculated at the rate of 6% per annum from the last day of each year in question in the manner set forth in paragraph 16 of the opinion of this court of 8-13-73, as corrected 8-31-73, and as reported in 364 F. Supp. 6 at 11. (LB-J) nd cps. mld.	
1-21		PARTIAL RELEASE by pltf. of judg. lien against certain real property.k	
2-6		NOTICE OF APPEAL by pltf. from order of 1/15/81. rm - c/m USCA (see court order dated 1/15/81)	
2-19		LTR. from 10th Cir., assigning 81-1159. rm	
2-25		NOTICE of tr. order (no tr. necessary).rm - c/m USCA	
2-25		TRANSMITTED Vol. I to 10th Circuit.am cps/mld	
3-9-82		MANDATE & OPINION of 10th Cir. affirming. rm	
4-14	--	APPEAL RECORD, Vol. I, received from 10th Circuit. pt	
4-22		APPLIC to w/draw funds.(0 to J)a	
4-26		ORDER clerk is directed to w/draw \$250.00 to Boone, Smith, Davis & Hurst.(HDC-J)a	
5-10		RELEASE & SATISFACTION OF JUDGMENT.a	
5-19	--	LTR. from 10th Cir. that pet/cert. was filed w/Supreme Ct. on 5/11/82 and assigned 81-2089. rm	
1982			
10-14	--	LTR. from 10th Cir. that pet/cert. was denied by Supreme Ct. on 10/4/82. rm	